

REMARKS

Claims 15-25 currently are pending. Claim 15 currently has been amended.

Claims 15-25 are rejected under 35 USC § 112, first paragraph, because the specification, while being enabling for particular polymers and polymer containing composition, does not reasonably provide enablement for any polymer.

In response, applicants amend claim 15 by defining the polymeric coating material as: "a polymeric coating material selected from the group consisting of gelatin, chitosan, alginates, casein, caseinates and homopolymers of acrylic acid."

Claim 1 is rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because the limitation "the active ingredient/polymer solution or precipitate" and the "polymer coating material" in lines 4-6 have insufficient antecedent basis. Applicants believe the examiner actually refers to claim 15 instead of claim 1. In response, applicants appropriately amend claim 15.

One of ordinary skill in the art would not believe that a batchwise process and a continuous process are the same. However, the examiner believes it would have been obvious to modify the process of Stainmesse et al. to a continuous production to optimize the process. The examiner refers to Roeger (US 6,791,908), col.9, lines 11-24 and claim 9, as showing "several conventional processing means including those of issue that are considered equivalent." However, after considering Roreger, applicants do not see how this reference contributes in any way to the question of whether a

continuous process is equivalent to a batchwise process. This reference by the examiner concerns turning an aqueous collagen mixture into solid shaped forms. Applicants therefore believe there is no suggestion for one of ordinary skill in the art to modify the method disclosed by Stainmesse to a continuous process. In order to complete the PTO's *prima facie* case and shift the burden of going forward to applicant, there must be evidence (other than speculation by the PTO) that one of ordinary skill in the subject art would have been motivated to make the modification of the prior art necessary to arrive at the claimed subject matter. *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941, 1944 (Fed. Cir. 1992).

Regarding List et al. the examiner believes it would have been reasonable to modify the its process using conventional continuous processing and mixing means. In response, applicants again point out that List et al. the batchwise operation disclosed by List et al. has to be followed by filtration to separate any coarse particles. (see examples 1 and 2 of List et al.). This shows that the teaching in List et al. would not lead to find particles with uniform size without further steps.

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HEGER et al., Ser. No. 09/857,480

Respectfully submitted,

KEIL & WEINKAUF

A handwritten signature in black ink, appearing to read "D. Kim", written in a cursive style.

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